

105TH CONGRESS  
1ST SESSION

# S. 622

To amend the Internal Revenue Code of 1986 to modify the application of the pension nondiscrimination rules to governmental plans.

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## IN THE SENATE OF THE UNITED STATES

APRIL 22, 1997

Mr. HATCH (for himself, Mr. CONRAD, Mr. COCHRAN, Mr. GREGG, Ms. MOSELEY-BRAUN, Mr. ENZI, Mr. INOUE, Mr. BAUCUS, Mr. REID, Mr. D'AMATO, Mr. KYL, Mr. ASHCROFT, Mr. DOMENICI, Mr. HAGEL, Mr. BOND, Mr. THOMAS, Mr. MURKOWSKI, and Mr. NICKLES) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to modify the application of the pension nondiscrimination rules to governmental plans.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. MODIFICATIONS TO NONDISCRIMINATION AND**  
4 **MINIMUM PARTICIPATION RULES WITH RE-**  
5 **SPECT TO GOVERNMENTAL PLANS.**

6 (a) GENERAL NONDISCRIMINATION AND PARTICIPA-  
7 TION RULES.—

1           (1) NONDISCRIMINATION REQUIREMENTS.—  
 2           Section 401(a)(5) of the Internal Revenue Code of  
 3           1986 (relating to qualified pension, profit-sharing,  
 4           and stock bonus plans) is amended by adding at the  
 5           end the following:

6                   “(G) GOVERNMENTAL PLANS.—Para-  
 7                   graphs (3) and (4) shall not apply to a govern-  
 8                   mental plan (within the meaning of section  
 9                   414(d)).”.

10          (2) ADDITIONAL PARTICIPATION REQUIRE-  
 11          MENTS.—Section 401(a)(26)(H) of such Code (relat-  
 12          ing to additional participation requirements) is  
 13          amended to read as follows:

14                   “(H) EXCEPTION FOR GOVERNMENTAL  
 15                   PLANS.—This paragraph shall not apply to a  
 16                   governmental plan (within the meaning of sec-  
 17                   tion 414(d)).”.

18          (3) MINIMUM PARTICIPATION STANDARDS.—  
 19          Section 410(c)(2) of such Code (relating to applica-  
 20          tion of participation standards to certain plans) is  
 21          amended to read as follows:

22                   “(2) A plan described in paragraph (1) shall be  
 23                   treated as meeting the requirements of this section  
 24                   for purposes of section 401(a), except that in the  
 25                   case of a plan described in subparagraph (B), (C),

1 or (D) of paragraph (1), this paragraph shall only  
 2 apply if such plan meets the requirements of section  
 3 401(a)(3) (as in effect on September 1, 1974).”.

4 (b) PARTICIPATION STANDARDS FOR QUALIFIED  
 5 CASH OR DEFERRED ARRANGEMENTS.—Section  
 6 401(k)(3) of the Internal Revenue Code of 1986 (relating  
 7 to application of participation and discrimination stand-  
 8 ards) is amended by adding at the end the following:

9 “(G)(i) The requirements of subparagraph  
 10 (A)(i) and (C) shall not apply to a govern-  
 11 mental plan (within the meaning of section  
 12 414(d)).

13 “(ii) The requirements of subsection  
 14 (m)(2) (without regard to subsection (a)(4))  
 15 shall apply to any matching contribution of a  
 16 governmental plan (as so defined).”.

17 (c) NONDISCRIMINATION RULES FOR SECTION  
 18 403(b) PLANS.—Section 403(b)(12) of the Internal Reve-  
 19 nue Code of 1986 (relating to nondiscrimination require-  
 20 ments) is amended by adding at the end the following:

21 “(C) GOVERNMENTAL PLANS.—For pur-  
 22 poses of paragraph (1)(D), the requirements of  
 23 subparagraph (A)(i) shall not apply to a gov-  
 24 ernmental plan (within the meaning of section  
 25 414(d)).”.

1 (d) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by  
3 this section apply to taxable years beginning on or  
4 after the date of enactment of this Act.

5 (2) TREATMENT FOR YEARS BEGINNING BE-  
6 FORE DATE OF ENACTMENT.—A governmental plan  
7 (within the meaning of section 414(d) of the Inter-  
8 nal Revenue Code of 1986) shall be treated as satis-  
9 fying the requirements of sections 401(a)(3),  
10 401(a)(4), 401(a)(26), 401(k), 401(m), 403  
11 (b)(1)(D) and (b)(12), and 410 of such Code for all  
12 taxable years beginning before the date of enactment  
13 of this Act.

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